IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

MFA.No. 654 of 1998(B)

WCC.18/1994 of W.C.C.,THRISSUR
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APPELLANT:

1.SMT. THANKAM ALIAS THANKAMANI (DIED)
W/O K.I.PRABHAKARAN
KURIAKKOTTU HOUSE
P.O. PURANATTUKARA
TRICHUR DISTRICT

*2. K.P. ANANDHAN
S/O THANKAMANI,KURIAKKOTTU HOUSE
P.O, PURANATTUKARA
TRICHUR DISTRICT

*3. SUBHADRA SATHYANANDAN
D/O THANKAMANI, KURIAKKOTTU HOUSE
P.O. PURANATTUKARA
TRICHUR DISTRICT

*4. SUMITHRA K.P, D/O THANKAMANI
KURIAKOTTU HOUSE
P.O PURANATTUKARA
TRICHUR DISTRICT
(*ADDITIONAL APPELLANTS 2 TO 4 ARE IMPLEADED AS PER ORDER IN I.A. NO. 2900/2005 DATED 29-9-2005)

BY ADV. SRI.K.SHRIHARI RAO

RESPONDENTS:
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1. K.I.PRABHAKARAN
S/O ITTACHI
KURIAKOTTU HOUSE
P.O.PURANATTUKARA
TRICHUR DISTRICT.

2. NATIONAL INSURANCE COMPANY LTD.
TRICHUR

BY ADV. SMT.SARAH SALVY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 07/08/2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A. No. 654 of 1998

Dated this the 7th day of August 2007

JUDGMENT

The applicant in W.C.C. 18/94 on the file of the Commissioner for Workmen's compensation, (Deputy Labour Commissioner) Thrissur, is the appellant. The appeal is filed by the applicant herself challenging that part of the order by which the Deputy Labour Commissioner had directed the respondents to pay compensation amount from the date of receipt of a copy of the order within 30 days and if that amount is not paid within that period the 2nd respondent is liable to pay interest at the rate of 12%. per annum after the receipt of the impugned judgment The mother, of the workman who died in an accident on 21-5-1990. It would appear that initially she filed a claim before the Motor Accident Claims Tribunal which was disposed of with a direction to the appellant to approach the Workmen's Compensation Court . Accordingly she filed this W.C.C in the year 1994. The Deputy Labour Commissioner found that the appellant is entitled to get a compensation of Rs. 86,112/-. It was ordered that if the insurer (2nd opposite party in the W.C.C)failed to deposit the amount within 30 days from the date of awarding, the amount can be recovered with simple interest at the rate of 12% per annum from the date of default after the receipt of the impugned judgment .

2. Challenging that part of the order this appeal is filed. The only question arising for consideration in this appeal is whether the appellant is

entitled to get interest from the date of the accident. In **Gopinath Vs. United India Insurance Co.Ltd 2000(1) KLT 779** this court found the liability to pay interest will run from the date of the accident and not from the date by which the Workmen Compensation Court passed the order. But in this case the appellant approached the work men Compensatin Court after the lapse of four years. There was a petition to condone the delay. . The delay of one year and 8 months were condoned. The application for compensation was filed on 14-1-1994. The Deputy Labour Commissioner took a view that since the delay occurred on the fault of the appellant she is not entitled to claim interest. I find it difficult to fully agree with the view even assuming that there was delay on the part of the appellant to approach the Workmen 's Compensation Court and the appellant is entitled to get statutory interest at the rate of 6% from the date of filing of the petition till the date of deposit ,and to that extent that order is to be modified.

3. In the result this M.F.A. is allowed in part. The appellant is allowed to recover interest at the rate of 6% per annum from 15-1-1994 till the date of deposit of the amount. The insurer was directed to deposit the amount also within two months from today. On deposit the appellant can withdraw the entire amount.

K.PADMANABHAN NAIR,JUDGE

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